

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANTHONY HORTON,	:	
	:	
Plaintiff	:	
	:	
v.	:	Civil Action
	:	No. 13-3352
USA ENVIRON. MANAGEMENT, et al.	:	
	:	
Defendants.	:	

**DEFENDANT CITY OF PHILADELPHIA’S ANSWER,
WITH AFFIRMATIVE DEFENSES, TO PLAINTIFF’S COMPLAINT**

Defendant City of Philadelphia, (hereinafter “Answering Defendant”), by and through its undersigned counsel, hereby responds to Plaintiff’s Complaint as follows:

I. INTRODUCTION

The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff’s statement of the case and, therefore, require no response. To the extent a response is required, denied.

II. PARTIES

1. The allegations as to Plaintiff’s residence pertain to parties other than Answering Defendant and, therefore, require no response. To the extent a response is required, denied.
2. The allegations contained in this paragraph are addressed to individuals other than the Answering Defendant. Therefore, no further answer is required to the averments contained herein. To the extent a response is required, these allegations are denied.

3. Admitted in part, denied in part. It is admitted that the City of Philadelphia is a municipal corporation duly organized and operating under the rules and regulations set forth to them by the Commonwealth of Pennsylvania. The remaining allegations in this paragraph are denied.
4. Denied. The Streets Department of the City of Philadelphia is a department of the City.
5. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.
6. The allegations contained in these paragraphs do not require a response as they are addressed to John Does who are fictitious individuals. Therefore, no further answer is required. To the extent a response is required, these allegations are denied.

III. JURISDICTION AND VENUE

7. Admitted.
8. Admitted.

IV. FACTS

9. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.
10. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.

11. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.
12. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.
13. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.
14. Admitted.
15. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.
16. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.
17. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.
18. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.

19. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.
20. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.
21. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.
22. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.
23. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.
24. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.
25. After reasonable investigation, Answering Defendant is without knowledge or information sufficient to form a belief as to the truth of the factual averments contained in this paragraph. All allegations are therefore denied.

26. Answering Defendant has no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings and/or damages alleged to have been sustained by Plaintiff and the same are accordingly denied.

27. Answering Defendant has no knowledge or means of ascertaining the truth or falsity of the allegations respecting the injuries, sufferings and/or damages alleged to have been sustained by Plaintiff and the same are accordingly denied.

COUNT I – NEGLIGENCE

28. Answering Defendant incorporates its answers to the preceding paragraphs, inclusive, as though set forth fully herein.

29. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

30. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

COUNT II – DUE PROCESS
Against Defendant Officers

31. Answering Defendant incorporates its answers to the preceding paragraphs, inclusive, as though set forth fully herein.

32. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

33. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
34. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
35. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
36. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
37. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
38. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
39. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

WHEREFORE, Answering Defendant denies that it is liable upon all causes of action declared upon and demand judgment in its favor, plus interest and costs.

Respectfully Submitted,

Date: September 16, 2013

s/ Christopher H. Rider
Christopher H. Rider
Assistant City Solicitor
Pa. Attorney ID No. 307265
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1515 Arch Street, 14th Floor
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JURY DEMAND

Answering Defendants demand a jury trial in this action.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Answering Defendants assert all of the defenses, immunities, and limitations of damages available to them under the “Political Subdivision Tort Claims Act” and aver that Plaintiff’s remedies are limited exclusively thereto. Act of Oct 5, 1980, No. 142, P.L. 693, 42 Pa. C.S.A. § 8541 et seq.

THIRD AFFIRMATIVE DEFENSE

Answering Defendants are immune from liability under the doctrine of qualified immunity.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are precluded by the statute of limitations.

WHEREFORE, Answering Defendants deny that they are liable upon all causes of action declared upon and demand judgment in their favor, plus interest and costs.

Respectfully Submitted,

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	:	
Defendants.	:	

CERTIFICATE OF SERVICE

I hereby certify that on the date below, the foregoing **Defendants' Answer with Affirmative Defenses to Plaintiff's Complaint** has been filed on ECF and is available for viewing and downloading.

Date: September 16, 2013

s/ Christopher H. Rider
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